



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/814,229 | 03/21/2001 | Roland Lippoldt | DT-3841 | 2010 |

30377 7590 07/11/2002

SIDLEY, AUSTIN, BROWN & WOOD, LLP
875 THIRD AVENUE
NEW YORK, NY 10022

EXAMINER

MELWANI, DINESH

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3677

DATE MAILED: 07/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/814,229

Applicant(s)

LIPPOLDT ET AL.

Examiner

Dinesh N Melwani

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) 6, 9, 10, 12, 13, 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/814229, filed on 03/21/2001.

Acknowledgement is made of applicant's submission of:

Preliminary Amendment A filed on 3/21/2001

Change of Address filed on 10/3/01

The aforementioned items have been noted and officially inserted into the application.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the circuitry of in claim 8, the several catch hooks of claim 19, and the seal of claim 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

Content of Specification

3. The disclosure is objected to because of the following informalities: The specification is not in the currently accepted format. The examiner suggests use of the following sections and titles. Appropriate correction is required.

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

- (e) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

- (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (f) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (g) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (h) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet (37 CFR 1.52(b)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (j) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the

international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

- (k) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

4. The Specification is objected to because reference character “11” has been used to designate both the pivot axis and the swivel bearing on page 8, line 6 and page 9, line 11, respectively. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claim 6 is objected to because of the following informalities: Grammatical error in line 2. The applicant recites “... the guide element is a guide pin (9) is defined...”. The examiner suggests removal of “is” before “defined”. Appropriate correction is required
6. Claim 9 is objected to because of the following informalities: Typographical error in line 2. The examiner suggests replacing “ahs” with --has--. Appropriate correction is required.
7. Claim 10 is objected to because of the following informalities: Typographical error in line 3. The examiner suggests replacing “9” with a --(-- after “segment”. Appropriate correction is required.
8. Claim 12 is objected to because of the following informalities: Typographical error in line 3. The examiner suggests replacing “9” with a --(-- after “hook”. Appropriate correction

Art Unit: 3677

9. Claim 13 is objected to because of the following informalities: Typographical error in line 3. The examiner suggests deleting "9". Appropriate correction is required.
10. Claim 18 is objected to because of the following informalities: Typographical error in line 2. The examiner suggests adding --)-- after "11". Appropriate correction is required.

Claim Rejections - 35 USC § 112

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
12. Claims 3 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear as to exactly what is being claimed by the limitation "and/or" in line 3.
13. In regards to claim 8, it is unclear as to exactly how short-circuiting of the electric motor drive is achieved in the locking position and how said short circuit maintains the electric motor drive in the locking position.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3677

15. Claims 1-3, 5, 6, 8, 9, 11-13, 15, 16, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu (U.S. Patent No. 6,402,208). Shimizu discloses a locking device of a closure with a housing substantially as claimed, wherein said locking device comprises a swiveling lever (13) pivotally supported about an axis of rotation (P) in the housing (6) and having a cam segment (26). Shimizu's locking device also includes at least one drive to pivot said swiveling lever, wherein said drive is a handle (17), see column 4, lines 37-38. Furthermore, Shimizu discloses a catch hook (22) supported on the swiveling lever and including a projectile guide element (i.e. pin)(24), and at least one spring means (31). See Figure 8. Still Furthermore, Shimizu includes a closing edge of the closure (23) adapted to be gripped. Shimizu's guide pin is disposed on the catch hook, while the cam segment is disposed on the swiveling lever, it is however deemed that the reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art. In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955); In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

16. In regards to claim 2, Shimizu discloses a locking device of a closure having a swiveling lever, wherein said lever is substantially of a circle segment shape.

17. Regarding claim 3, Shimizu discloses a locking device of a closure, wherein the axis of rotation (P) is disposed in the inner angular range of the circle segment shaped swiveling lever and pivot axis (about pin 24) is disposed in the vicinity of a lateral limitation of the circle segment shaped swiveling lever.

Art Unit: 3677

18. In regards to claim 8, it has been deemed that the use of a circuit to enhance the self-locking action is non-critical to the present invention as admitted by the applicant on page 4.

Shimizu discloses a mechanical block (41), which enhances the self-locking action.

19. Regarding claim 11, Shimizu's spring element (31) is held on the housing at the other end (32).

20. In regard to claims 12 and 13, Shimizu's catch hook is adapted to be moved through a slot-shaped aperture (A in Figure 9) in the housing, wherein said hook does not substantially project beyond the housing.

21. Regarding claims 15 and 16, Shimizu discloses a latch for an oven door (i.e. closure), wherein it is widely known to one with ordinary skill in the art that oven doors are pivotally mounted on the housing of the oven. See Figure 8 and 9.

22. In regards to claim 19, the use of several catch hooks has been deemed a mere duplication of parts since one catch hook maintains the closure in a closed position and any additional catch hooks would only serve further insure said closure remained closed.

Duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

23. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu (U.S. Patent No. 6,402,208) in view of Baukholt et al. (U.S. Patent No. 5,992,194). Shimizu discloses a locking device substantially as claimed, wherein said device includes a swiveling lever, However, Shimizu does not disclose a series of teeth extending around the axis of rotation of said lever. Baukholt discloses a lock that teaches the use of teeth (1.10a) on the periphery of a circular shaped lever. Therefore, it would have been obvious to one having ordinary skill in the

Art Unit: 3677

art at the time of invention to utilize the teachings of Baukholt, in regards to the use of teeth, to modify Shimizu to facilitate the transmission of power between a drive element and a driven element.

24. Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu (U.S. Patent No. 6,402,208) in view of Swartzell (U.S. Patent No. 6,315,336). Shimizu discloses a locking device substantially as claimed but does not include an electric motor. Swartzell discloses a closing device, wherein said device is actuated by an electric motor.

25. In regards to claim 10, Shimizu discloses a locking device substantially as claimed, wherein said device includes a spring element, but Shimizu does not disclose the fixing point of said spring element to be on the on the catch lever between the cam segment and the hooked end. Swartzell (Figure 4) discloses a motorized locking device that includes a spring element being fixed to the catch element (14) but does not address the positioning the spring element being fixed between the cam segment and the neck. Applicant has not disclosed that having the spring fixed at a specific location solves any stated problem or is for any particular purpose. Moreover, it appears that the spring element would perform equally well attached between the cam segment and the neck. Accordingly, the location of the fixing point is deemed a design consideration which fails to patentably distinguish over the prior art of Shimizu as modified by Swartzell. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize the teachings of Swartzell, in regards to the use of a motor in a latching device, to modify Shimizu so as to automate the latching process. Furthermore, it would have been obvious to modify Shimizu by utilizing the teachings of Swartzell, in regards to location of

Art Unit: 3677

spring attachment, and attached the spring directly to the catch element to bypass the swiveling lever and eliminate any motion lost in the rotation of said lever.

26. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu (U.S. Patent No. 6,402,208) in view of Daugherty et al. (U.S. Patent No. 4,776,619). Shimizu discloses a closing device substantially as claimed, wherein said device comprises a closing edge which stands back with respect to the closure, but does not disclose a cavity existing thereabove. Daugherty discloses a locking device that teaches the use of a receptacle (i.e. cavity) (16). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize the teachings of Daugherty, in regards to the use of a cavity, to modify Shimizu invention to insure the latching member is properly contained thereby reducing the risk of accidental unlatching.

27. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu (U.S. Patent No. 6,402,208) in view of Finkelstein et al. (U.S. Patent No. 5,887,916). Shimizu discloses a locking device for a closure, wherein said locking device closes said closure. However, Shimizu does not include a seal to facilitate sealing of the closure. Finkelstein discloses a latch for an oven door that teaches the use of a rubber seal (73). It would have been obvious to one having ordinary skill in the art at the time of invention to utilize the teachings of Finkelstein, in regards to the use of a rubber seal, to modify Shimizu's invention to ensure complete closing of said closure and prevent the escape of contents from within the closure.

Art Unit: 3677

Conclusion


28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Spargo (U.S. Patent No. 6,364,376) discloses a locking device substantially as claimed.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh N Melwani whose telephone number is 703-305-4546. The examiner can normally be reached on M-F, 8:30-6 except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4115.

DNM
July 3, 2002


J. J. SWANN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600